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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NIKE, INC.,
Plaintiff, Counter-Defendant,
v.
SKECHERS U.S.A. INC.,
Defendant, Counter-Plaintiff.

Case No. 2:23-cv-09346-AB-PVC
**NIKE, INC.'S ANSWER TO
SKECHERS U.S.A. INC.'S
COUNTERCLAIMS**
JURY TRIAL REQUESTED

1 Plaintiff and Counter-Defendant Nike, Inc. (“Nike”), through undersigned
2 counsel, files this Answer to Defendant and Counter-Plaintiff Skechers U.S.A. Inc.’s
3 (“Skechers”) Answer to Complaint and Counterclaims (ECF No. 34). Nike answers
4 as follows:

5 **PARTIES**

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8 1. Nike admits the allegations of Paragraph 1.

9 2. Nike admits the allegations of Paragraph 2.

10 **JURISDICTION AND VENUE**

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12 3. Nike admits this action arises under the Patent Laws of the United States
13 of America, 35 U.S.C. § 1 *et seq.* Nike admits this Court has subject matter
14 jurisdiction over the action under 28 U.S.C. §§ 1331 and 1338, based on actual
15 controversy between Skechers, on the one hand, and Nike, on the other hand, for
16 claims under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*
17 Nike admits Skechers is seeking relief pursuant to the Declaratory Act, 28 U.S.C. §§
18 2201 and 2202, but Nike denies Skechers is entitled to the relief it seeks.

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21 4. Nike admits an actual and justiciable controversy exists between
22 Skechers and Nike based on Nike having filed a Complaint against Skechers accusing
23 Skechers’ products of infringing one or more of U.S. Patent Nos. 8,266,749,
24 9,060,562, 9,510,636, 9,730,484, 9,918,511, and 9,986,781. Nike admits the actual
25 and justiciable controversy between Skechers and Nike concerns the validity and
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1 infringement of these patents. Except as so admitted, Nike denies the remaining
2 allegations in Paragraph 4.
3

4 5. Nike admits the Court may exercise personal jurisdiction over Nike in this
5 case because Nike submitted to the personal jurisdiction of this Court by filing the
6 Complaint. Nike admits it maintains a place of business in this judicial district. Nike
7 admits it leases a distribution center in Foothill Ranch, California from which Nike
8 brand apparel and equipment are shipped. Nike admits it operates retail stores in this
9 judicial district at which it sells and offers for sales its products. Except as so
10 admitted, Nike denies the remaining allegations of Paragraph 5.
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12

13 6. Nike admits this Court may exercise personal jurisdiction over Nike in this
14 case. Nike admits it has transacted and solicited business in California. Except as so
15 admitted, Nike denies the remaining allegations of Paragraph 6.
16

17 7. Nike admits venue is proper in this judicial district under 28 U.S.C. §§
18 1391 and 1400 because Nike submitted to the venue of this Court by filing the Complaint.
19 Except as so admitted, Nike denies the remaining allegations of Paragraph 7.
20

21 8. Nike admits the allegations of Paragraph 8.
22

23 9. Nike denies the allegations of Paragraph 9.
24

25 10. Nike denies the allegations of Paragraph 10.
26

27 11. Nike denies the allegations of Paragraph 11.
28

12. Nike denies the allegations of Paragraph 12.
2

1 13. Nike denies Skechers is entitled to an award of its attorneys' fees incurred
2 in connection with this action. Nike admits this is an exceptional case within the
3 meaning of 35 U.S.C. § 285, but only to the extent that Nike, as the prevailing party, is
4 entitled to its attorneys' fees incurred in connection with this action. Except as so
5 admitted, Nike denies the remaining allegations of Paragraph 13.
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FIRST COUNTERCLAIM

8 (Declaratory Judgment of Non-Infringement of the '749 Patent)
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11 14. Nike repeats and incorporates by reference its responses to Paragraph 1 to
12 as though fully set forth herein.
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15 15. Nike denies the allegations of Paragraph 15.
16
17

18 16. Nike admits it has the burden of proof on Skechers' infringement of U.S.
19 Patent No. 8, 266,749. Except as so admitted, Nike denies the remaining allegations
20 of Paragraph 16.
21
22

23 17. Nike admits Paragraph 22 of the Complaint contains at least some of
24 Nike's infringement allegations for U.S. Patent No. 8,266,749, and Nike reserves the
25 right to provide additional infringement allegations and details through discovery in
26 this case. Except as so admitted, Nike denies the remaining allegations of Paragraph
27 17.
28

18. Nike denies the allegations of Paragraph 18.
19
20. Nike denies the allegations of Paragraph 19.
21

22. Nike denies the allegations of Paragraph 20.
23

1 21. Nike denies the allegations of Paragraph 21.

2 **SECOND COUNTERCLAIM**

3 (Declaratory Judgment of Non-Infringement of the'562 Patent)

4 5 22. Nike repeats and incorporates by reference its responses to Paragraph 1 to
6 21 as though fully set forth herein.

7 8 23. Nike denies the allegations of Paragraph 23.

9 24. Nike admits it has the burden of proof on Skechers' infringement of U.S.
10 Patent No. 9,060,562. Except as so admitted, Nike denies the remaining allegations of
11 Paragraph 24.

12 13 25. Nike admits Paragraph 31 of the Complaint contains at least some of
14 Nike's infringement allegations for U.S. Patent No. 9,060,562, and Nike reserves the
15 right to provide additional infringement allegations and details through discovery in
16 this case. Except as so admitted, Nike denies the remaining allegations of Paragraph
17 25.

18 19 26. Nike denies the allegations of Paragraph 26.

20 21 27. Nike denies the allegations of Paragraph 27.

22 23 28. Nike denies the allegations of Paragraph 28.

24 25 29. Nike denies the allegations of Paragraph 29.

THIRD COUNTERCLAIM

(Declaratory Judgment of Non-Infringement of the '636 Patent)

30. Nike repeats and incorporates by reference its responses to Paragraph 1 to 29 as though fully set forth herein.

31. Nike denies the allegations of Paragraph 31.

32. Nike admits it has the burden of proof on Skechers' infringement of U.S. Patent No. 9,510,636. Except as so admitted, Nike denies the remaining allegations of Paragraph 32.

33. Nike admits Paragraph 40 of the Complaint contains at least some of Nike's infringement allegations for U.S. Patent No. 9,510,636, and Nike reserves the right to provide additional infringement allegations and details through discovery in this case. Except as so admitted, Nike denies the remaining allegations of Paragraph 33.

34. Nike denies the allegations of Paragraph 34.

35. Nike denies the allegations of Paragraph 35.

36. Nike denies the allegations of Paragraph 36.

37. Nike denies the allegations of Paragraph 37.

FOURTH COUNTERCLAIM

(Declaratory Judgment of Non-Infringement of the '484 Patent)

38. Nike repeats and incorporates by reference its responses to Paragraph 1 to 37 as though fully set forth herein.

1 39. Nike denies the allegations of Paragraph 39.

2 40. Nike admits it has the burden of proof on Skechers' infringement of U.S.
3 Patent No. 9,730,484. Except as so admitted, Nike denies the remaining allegations
4 of Paragraph 40.

5 41. Nike admits Paragraph 48 of the Complaint contains at least some of
6 Nike's infringement allegations for U.S. Patent 9,730,484, and Nike reserves the right
7 to provide additional infringement allegations and details through discovery in this
8 case. Except as so admitted, Nike denies the remaining allegations of Paragraph 41.

9 42. Nike denies the allegations of Paragraph 42.

10 43. Nike denies the allegations of Paragraph 43.

11 44. Nike denies the allegations of Paragraph 44.

12 45. Nike denies the allegations of Paragraph 45.

13 **FIFTH COUNTERCLAIM**

14 **(Declaratory Judgment of Non-Infringement of the '511 Patent)**

15 46. Nike repeats and incorporates by reference its responses to Paragraph 1 to
16 45 as though fully set forth herein.

17 47. Nike denies the allegations of Paragraph 47.

18 48. Nike admits it has the burden of proof on Skechers' infringement of U.S.
19 Patent No. 9,918,511. Except as so admitted, Nike denies the remaining allegations
20 of Paragraph 48.

49. Nike admits Paragraph 56 of the Complaint contains at least some of Nike's infringement allegations for U.S. Patent No. 9,918,511, and Nike reserves the right to provide additional infringement allegations and details through discovery in this case. Except as so admitted, Nike denies the remaining allegations of Paragraph 49.

50. Nike denies the allegations of Paragraph 50.

51. Nike denies the allegations of Paragraph 51.

52. Nike denies the allegations of Paragraph 52.

53. Nike denies the allegations of Paragraph 53.

SIXTH COUNTERCLAIM

(Declaratory Judgment of Non-Infringement of the '781 Patent)

54. Nike repeats and incorporates by reference its responses to Paragraph 1 to 53 as though fully set forth herein.

55. Nike denies the allegations of Paragraph 55.

56. Nike admits it has the burden of proof on Skechers' infringement of U.S. Patent No. 9,986,781. Except as so admitted, Nike denies the remaining allegations of Paragraph 56.

57. Nike admits Paragraph 64 of the Complaint contains at least some of Nike's infringement allegations for U.S. Patent No. 9,986,781, and Nike reserves the right to provide additional infringement allegations and details through discovery in

1 this case. Except as so admitted, Nike denies the remaining allegations of Paragraph
2 57.
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4 58. Nike denies the allegations of Paragraph 58.
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6 59. Nike denies the allegations of Paragraph 59.
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8 60. Nike denies the allegations of Paragraph 60.
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10 61. Nike denies the allegations of Paragraph 61.
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SEVENTH COUNTERCLAIM

12 (Declaratory Judgment of Invalidity of the '749 Patent)
13

14 62. Nike repeats and incorporates by reference its responses to Paragraph 1 to
15 61 as though fully set forth herein.
16

17 63. Nike denies the allegations of Paragraph 63.
18

19 64. Nike denies the allegations of Paragraph 64.
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EIGHTH COUNTERCLAIM

21 (Declaratory Judgment of Invalidity of the '562 Patent)
22

23 65. Nike repeats and incorporates by reference its responses to Paragraph 1 to
24 64 as though fully set forth herein.
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26 66. Nike denies the allegations of Paragraph 66.
27

28 67. Nike denies the allegations of Paragraph 67.
29

NINTH COUNTERCLAIM

(Declaratory Judgment of Invalidity of the '636 Patent)

68. Nike repeats and incorporates by reference its responses to Paragraph 1 to 67 as though fully set forth herein.

69. Nike denies the allegations of Paragraph 69.

70. Nike denies the allegations of Paragraph 70.

TENTH COUNTERCLAIM

(Declaratory Judgment of Invalidity of the '484 Patent)

71. Nike repeats and incorporates by reference its responses to Paragraph 1 to 70 as though fully set forth herein.

72. Nike denies the allegations of Paragraph 72.

73. Nike denies the allegations of Paragraph 73.

ELEVENTH COUNTERCLAIM

(Declaratory Judgment of Invalidity of the '511 Patent)

74. Nike repeats and incorporates by reference its responses to Paragraph 1 to 73 as though fully set forth herein.

75. Nike denies the allegations of Paragraph 75.

76. Nike denies the allegations of Paragraph 76.

TWELFTH COUNTERCLAIM

(Declaratory Judgment of Invalidity of the '781 Patent)

77. Nike repeats and incorporates by reference its responses to Paragraph 1 to 76 as though fully set forth herein.

78. Nike denies the allegations of Paragraph 78.

79. Nike denies the allegations of Paragraph 79.

RELIEF SOUGHT

Nike denies that Skechers is entitled to any of the relief sought in Skechers' prayer for relief.

JURY TRIAL DEMAND

Nike admits Skechers purports to requests a trial by jury of all issues so triable.

1 Dated: February 2, 2024

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